

Outlease Reform in Public Buildings (OUR Public Buildings) Act

Background:

The General Services Administration (GSA) owns and oversees over 376.9 million square feet of space within 9,600 public buildings.¹ In order to maximize facility use, which in turn saves taxpayer dollars, GSA leases vacant and underutilized federal property to private and non-federal entities, as well as for purposes including retail or limited-scope use. These latter situations are known as “outleases” and one of the most notable is the outlease at the Old Post Office (OPO) Building located at 1100 Pennsylvania Avenue NW. Built in the 1890s, the building served as the U.S. Post Office Department Headquarters and the main post office for the nation’s capital.

Listed on the National Register of Historic Places, the OPO Building previously housed federal agency offices. GSA made attempts to utilize the space for retail and a food court, but these failed to turn profits which lost money for the government. In 2008, Congress enacted the Old Post Office Building Redevelopment Act of 2008 (P.L. 110-359), directing the GSA to redevelop the OPO. In February 2012, the Trump Organization was announced as the developer and a lease was agreed to which contained an “Interested Parties” clause (Section 37.19) declaring no Member of Congress or “elected official of the Government of the United States” shall be a party to the lease.²

Once elected to the Presidency, Donald Trump in a way became both landlord and tenant which raised numerous ethical and constitutional questions since the then-President continued to maintain a financial interest in the hotel through the Trump Organization. Not to mention, the hotel’s location mere blocks away from the White House provided a venue for foreign interests to curry favor with the President by supporting business at the hotel. Furthermore, the GSA contract manager determined the lease’s “Interested Parties” clause did not apply primarily due to the fact that Trump became an elected official after the agreement had been reached.³

The OPO lease has been investigated by the House Committee on Transportation and Infrastructure since the 115th Congress. Under the leadership of Committee Chairman Peter DeFazio and Chairwoman Dina Titus of the Subcommittee on Economic Development, Public Buildings, and Emergency Management, numerous records requests revealed a poor track record for GSA’s management of the OPO lease. First, the GSA did not conduct oversight on possible foreign influence at the hotel, and the extent to which such influence may be a violation of the Emoluments Clause of the U.S. Constitution. The GSA also failed to provide the committee unredacted financial records until after the Trump Presidency. The records ultimately showed the Trump International Hotel lost tens of millions of dollars during its operations while likely benefiting from foreign patronage. Finally, GSA’s failure to properly address ambiguities of the “Interested Parties” clause in the OPO lease opened the door for similar conflicts of interest in

¹ “GSA Properties,” General Services Administration, October 11, 2017, accessed here: <https://www.gsa.gov/real-estate/gsa-properties>

² Evaluation of GSA’s Management and Administration of the Old Post Office Building Lease,” Office of Inspector General (OIG), General Services Administration, JE19-002, January 16, 2019, pp. 7-9, accessed here: https://www.gsaig.gov/sites/default/files/ipa-reports/JE19-002%20OIG%20EVALUATION%20REPORT-GSA%27s%20Management%20%26%20Administration%20of%20OPO%20Building%20Lease_January%2016%202019_Redacted.pdf

³ Ibid.

the future.

How the Bill Addresses the Problem:

In December 2021, Chair DeFazio and Subcommittee Chair Titus released the report *Problems on Pennsylvania Avenue* which addressed multiple concerns with the GSA's outleasing process, particularly as it related to the Old Post Office Building and the Trump Organization.

The report identified multiple legislative remedies that form the basis for this legislation which will ensure the outlease process serves the public interest.

The OUR Public Buildings Act prohibits the GSA from entering into or maintaining an outlease with a current President, Vice President, Member of Congress, or head of an executive agency. Furthermore, it requires the GSA Office of General Counsel to certify in writing, that the lessor does not hold one of the aforementioned positions. These provisions will not only settle legal and ethical ambiguities with future "Interested Parties" clauses, but also hold GSA accountable on future agreements.

To improve oversight of public buildings, the bill establishes a Congressional review period and process for disapproving an outlease agreement.

Finally, the bill implements standard clauses in covered outlease agreements requiring tenants to disclose foreign ownership. Such a reform will assist GSA in protecting "high-security leased spaces" which make up about 16 percent of existing leases.